



STATE OF WASHINGTON
WASHINGTON STATE BOARD OF HEALTH

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Minutes of the State Board of Health

November 14, 2001

A meeting of the Washington State Board of Health (SBOH) was held at the WestCoast Grand Hotel at the Park in Spokane, Washington. The public meeting of the SBOH was called to order at 8:55 a.m. by Linda Lake, Chair, who addressed the attendees with the following statement:

“This is a public meeting of the SBOH held under provision of RCW 43.20. Notice of the meeting was provided in accordance with provisions of RCW 34.05, the Administrative Procedures Act. Those members having any conflict of interest on any item coming before the Board will report that conflict with respect to the particular subject under consideration. In case of challenge of any Board members by the public, the Board shall decide the status of the challenged members to participate before considering the substance of the matter.

Copies of all materials supplied to the Board for today’s meeting have been available since close of business last Friday from the Board’s Olympia office and on the Board’s Web site at www.doh.wa.gov/sboh. They are also available today, along with anything else we have received since, at the table in the back of the room. To conserve public funds, we have only made as many copies as we feel will be needed, so we may run out of some particularly popular items. If you do not find a document you need, please ask Desiree Robinson, or another Board staff person for one.

Our meeting today is open to the public, so please feel free to listen in on informal discussions involving Board members or staff, including any that may occur during breaks or lunch.”

The following Board members were present:

Linda Lake, Chair

Vickie Ybarra, RN, MPH

Charles R. Chu, DPM

Ed Gray, MD

Thomas H. Locke, MD, MPH

Mary Selecky, Secretary, Department of Health

Joe Finkbonner, MHA

State Board of Health Staff present:

Don Sloma, Executive Director

Craig McLaughlin, Senior Health Policy Manager

Doreen Garcia, Senior Health Policy Advisor

Marianne Seifert, Health Policy Advisor

Desiree Robinson, Executive Assistant

Jennifer Dodd, Assistant to the Board

Melissa Burke-Cain, Assistant Attorney General

Guests and Other Participants:

Anne Marie Axworthy, Avista Corporation
Bliss Moore, Department of Health
Vic Forni, United Way of Spokane
John Powers, City of Spokane
Shanda Diel, Spokane Regional Health District
Michelle Davis, Department of Health
Dr. Kim Thorburn, Spokane Regional Health Officer
Jennifer Tibaldi, Department of Health
John Roskelley, Spokane County Commission
Monica Tonel, U.S. Environmental Protection Agency
Catherine Sanders, Washington State Hospital Association
Jeff Mero, Washington State Hospital Association
Jac Davies, Department of Health
Dr. Ward Hinds, Snohomish County Health Department
Others [For other guests please see the sign-in sheet]

APPROVAL OF AGENDA

- *Motion: To approve the November 14, 2001 agenda as submitted.*
Motion/Second: Finkbonner/Chu
Approved: Passed Unanimously

ADOPTION OF OCTOBER 10, 2001 MEETING MINUTES

- *Motion: To approve the October 10, 2001 minutes as submitted.*
Motion/Second: Locke/Chu
Approved: Passed Unanimously

WELCOME – SPOKANE HEALTH DISTRICT

Spokane Commissioner John Roskelley, a member of the Spokane Regional Health District Board, welcomed the State Board of Health to Spokane and briefly discussed the problems facing local government. Secretary Selecky asked Commissioner Roskelley what Initiative 747 (I-747) will do to Spokane County? Commissioner Roskelley stated that Spokane County would not be affected by the I-747 because the county has not raised property taxes in a long time, however the city of Spokane will take a hit because of the city's dependency on property taxes. He stated that the county plans to raise property taxes by one percent this year.

SPOKANE POVERTY ASSESSMENT

Dr. Kim Thorburn, Health Officer for the Spokane Regional Health District, stated that a major problem in Spokane County is poverty. Elected officials recognize poverty as critical issue. The Spokane Regional Health District has conducted an assessment of poverty in Spokane County. The assessment has used the measure: **“What is the required cost necessary to sustain a basic standard of living in Spokane?”** They found that to sustain a basic standard of living, a family of four must have income equal to two times the federal poverty level. Spokane's mayor is holding a summit and will use the health district's assessment work as a basis for its deliberations.

Ms. Shanda Diel from the Spokane Regional Health District presented findings from the assessment. Ms. Diel explained how poverty affects the social determinants of health. She presented many statistics from their findings. See Tab 5 for an overview of the assessment.

Mr. Vic Forni, executive director of the United Way of Spokane, discussed the organization's activities and its role in the assessment. He also explained that there is not a common agreement on what defines poverty. He stressed that it is very effective to work in partnership with the local health district and others.

Ms. Anne Marie Axworthy from Avista Corporation stated that she was representing the voice of business. She agreed that poverty is a big concern to the business community and emphasized that the poverty assessment is critical so that everyone has a common agreement about what poverty means in Spokane. With that information as well as collaboration business can understand and participate in solutions rather than be defensive due to their concerns about wages, and other related issues.

Board members Ed Gray and Secretary of Health Mary Selecky suggested the assessment address income levels in addition to the costs of daily living. The panel discussed Dr. Gray's suggestion. Board Member Tom Locke stressed that we cannot make progress on reducing health disparities without addressing poverty.

Mr. John Powers, Mayor, City of Spokane shared his perspective on the extent of poverty in Spokane. He stated that while the community at large is not as healthy as it would appear because of the social conditions many families' face. For example, about 50 percent of children in the Spokane School District are in a state of permanent migration due to their parents' unstable financial situation. Mayor Powers stated that poverty means people's core sufficient needs are deficit. His goal is to raise the standard of living to the median family income. Mayor Powers wants to be sure that the state is aware of Spokane's problem.

Secretary Selecky asked the mayor to discuss his perspective on I-747. Mayor Powers stated that he is not a fan of governing by initiative. I-747 coming on the heels of I-695 will create additional pressures, although raising property taxes are not a favorable way of funding. Mayor Powers stated that the city is more affected by the reduction in car tabs. He stated that I-747 would constrain what can be done to eliminate the implications of poverty.

LAKE ROOSEVELT & SPOKANE RIVER UPDATES

Ms. Monica Tonel presented an overview of the EPA Superfund Program Site Assessment. Ms. Tonel presented a Power Point presentation found in Tab 5. She explained that this assessment would not determine if the water is safe, air is safe, etc. The assessment will be used to help evaluate if the Upper Columbia River should be prioritized for eligibility for Superfund inclusion. Secretary Selecky explained that this issue has been important to the Department of Health and information should be shared with the Board. When the water level is reduced it exposes huge amounts of dust which includes sediments from lead, zinc, silver, and gold deposits.

TRANSIENT ACCOMMODATIONS

WSBOH staff member Marianne Seifert provided a brief overview of Chapter 70.62 RCW Transient Accommodations-Licensing-Inspections and referred Board members to Tab 6 for detailed information. Ms. Seifert presented the proposed Board Motions listed below on behalf of Board Member Carl Osaki who was unable to be present. Mr. Bliss Moore explained the DOH Transient Accommodations Program and why DOH believes that the Board should review Chapter 246-360 WAC. The November 14, 2001 memo from Board member Carl Osaki to Board members, *Update and Request to Revise Chapter 246-360 WAC*, found in Tab 6 states that the rule review may be “controversial.” Secretary Selecky asked when something is considered “controversial.” Board members briefly discussed the *WSBOH Policy Considering Delegation of Rules to the Department of Health*. DOH Rules Manager Michelle Davis stated that DOH and SBOH have been following these criteria in the rule review. Executive Director Don Sloma explained that this issue is on the agenda today based on DOH request.

- ***Motion: Based on research and conversations with interested parties, the rule revision process may include substantive and controversial changes and therefore should not be delegated to the Department of Health at this time. The Board designates Carl Osaki as the rule sponsor and directs its executive director to issue a CR-101 indicating the Board’s intention to consider revising the Transient Accommodation regulations.***

Motion/Second: Locke/Finkbonner

Passed unanimously

UPDATE ON DOH REVIEW OF WAC 246-215 -- FOOD CODE

WSBOH staff member Marianne Seifert provided an update and Board member Carl Osaki’s request to review Chapter 246-215 WAC-Food Safety Regulations. Jennifer Tebaldi provided information about the DOH Food Safety Program and the need for review of Chapter 246-215. Issues that will probably arise include bare hand contact as well as the ability of counties to have more stringent requirements than state requirements. Board members discussed the proposed timeframe for the rule review (2-4 years). Dr. Locke stated that this rule is important to local governments; therefore the rule should be reviewed in the time necessary given available resources. DOH Rules Manager Michelle Davis explained that DOH experience is that rule reviews take about 13 months when a cost/benefit analysis is necessary. Two cost/benefit analyses will need to be done.

- ***Motion: The Washington State Board of Health designates Carl Osaki as the rule sponsor for review of Chapter 246-215 WAC-Food Safety Regulations. The Board directs its executive director to issue a CR-101 indicating the Board’s intention to consider revising the Food Service regulations to better protect the health, safety, and well being of the public and prevent the spread of disease by food. The rule revision process should examine developing regulations that are more consistent statewide, using the FDA Food Code as a guide.***

Motion/Second: Locke/Chu

Passed unanimously

SBOH STAFF ANNOUNCEMENTS AND OTHER BOARD BUSINESS

Board Executive Director Don Sloma reviewed the FYI attached to the Board's Final Meeting Agenda. He highlighted key items in each category of the FYI. Mr. Sloma briefly discussed the Board's proposed 15 percent budget reduction proposal found in Tab 8 and discussed the implications of those possible reductions. He also stated that the Board would be a bare bones budget as a result of the reduction.

2002 WSBOH MEETING SCHEDULE

Mr. Sloma then referred Board members to Tab 9 to review the Proposed 2002 Board Meeting Schedule. He asked for the Board to make a motion to accept the schedule

- *Motion: The Board approves the proposed 2002 Meeting Schedule as submitted on November 14, 2001.*
Motion/Second: Ybarra/ Finkbonner
Passed unanimously

LUNCH (noon)

DEPARTMENT OF HEALTH UPDATE

Secretary Mary Selecky mentioned that tomorrow is the "Great American Smoke Out," and that new ads will be released in January that are "in your face." She mentioned that DOH might use dollars from the recently passed initiative to target special populations with non-smoking messages and fund a youth quit line. Secretary Selecky discussed the DOH budget, and stated that seven agencies created lists of options to reduce spending per the Governor's request. She has asked the local health jurisdictions where they could shift funds to avoid negatively impacting public health and preparedness. She has asked DOH programs to identify their core work during consideration of budget cuts. Secretary Selecky discussed being sensitive about multiple hits on communities. She discussed her relationships with other agencies involved in coordinated emergency responses. Secretary Selecky discussed an "executives" group that meets weekly to keep informed and establish roles and communication patterns in the event of an emergency. She also mentioned the internal task force that SBOH staff Craig McLaughlin has joined.

2001 REPORT ON GOVERNOR LOCKE'S EXECUTIVE ORDER ON REGULATORY IMPROVEMENT

DOH Rules Manager Michelle Davis discussed the *2001 Report on Governor Locke's Executive Order on Regulatory Improvement*. (see Tab 11). The report summarizes the status of rule reviews completed by the department and the Board.

- *Motion: The Washington State Board of Health approves the 2001 State Board of Health and Department of Health report on Governor Locke's Executive Order on Regulatory Improvement as submitted to the Board on November 14, 2001.*
Motion/Second: Tom Locke/Charles Chu
Passed unanimously

Secretary Mary Selecky and Executive Director Don Sloma complimented Ms. Davis on her work.

EMERGENCY PREPAREDNESS REPORT & DRAFT RESOLUTION

WSBOH staff member Craig McLaughlin discussed the contents and reason for the emergency preparedness report (see Tab 12). He reviewed the Board's discussion from its October meeting on emergency preparedness and the Board's role in encouraging emergency response capacity. The Emergency Preparedness Report examines and confirms the consistency of the Board's October panel of presenters with other sources. The report also provides a foundation of possible future Board actions. Mr. McLaughlin reviewed the distinction between emergency preparedness and capacity, and mentioned that the focus of the report is more on capacity than preparedness.

Dr. Locke commented on the importance of getting the report's tone right—a tone that identifies threats without distorting threats, one that motivates people to act but does not paralyze them with fear. The recommendations were designed to stimulate system changes and factored in the leadership role the Board wants to play. Dr. Locke read the report recommendations and explained the reasons behind the recommendations (see report recommendations in Tab 12). State Board of Health member Joe Finkbonner thanked Dr. Locke and Mr. McLaughlin for responding to Board concerns. Chair Lake agreed and thanked Mr. Finkbonner for inspiring the Board. Secretary Mary Selecky reminded the Board that the discussion is focused on **potential** terrorist threats, not an actual terrorist threat, and that there are threats from communicable diseases. Dr. Locke suggested friendly amendments to the draft resolution.

- ***Motion: The Washington State Board of Health adopts the Draft Report as amended, "Response Capacity During a Health Emergency—A Review of Selected Issues" as submitted on November 14, 2001.***

***Motion/Second: Ed Gray/Joe Finkbonner
Passed unanimously***

Chair Lake mentioned that the Board is likely to hear more on this topic in the future.

REVIEW OF CHAPTER 246-100 WAC & 246-101 – "REPORTABLE CONDITIONS" AS THEY PERTAIN TO EMERGENCY PREPAREDNESS

Executive Director Don Sloma described the Board's authority in the event of communicable disease outbreaks (see Tab 13 materials, p. 28, for current statutory authority) and reviewed WAC 246-101-505. SBOH Attorney General Melissa Burke-Cain stated that the material in Tab 13 is preliminary and needs more research. Mr. Sloma acknowledged Ms. Burke-Cain's comments, and stressed the importance of an understanding of clear and defensible authority to prevent liability issues in case of emergencies.

DOH Assistant Secretary Jac Davies, highlighted WAC 246-101 sections that especially pertain to emergency response conditions and that define roles of local health officials, the Washington State Department of Health, state health officers, and the State Board of Health.

Ward Hinds, Snohomish County Health Officer and Washington State Association of Local Public Health Officials Chair, discussed the importance of communicable disease control and quarantine rules in responding to and containing a smallpox outbreak. Dr. Hinds mentioned that

the first few hours in identifying a smallpox outbreak are crucial. Secretary Selecky mentioned the dilemma of having authority without enforcement capability.

Dr. Kim Thorburn thanked the Board for adopting emergency response report and agreed with Dr. Hinds that smallpox is the number one bioterrorism threat, but mentioned also the importance of influenza outbreaks and a broader consideration of potential outbreaks. Dr. Locke discussed the perspective of local health officers—local health officers have a lot to work with based on existing rules, however clearer and stronger authority needs to be defined. He described syndromic surveillance being a more active surveillance, rather than the more passive system in place now. He discussed that just drafting on another notifiable condition may not work, and asked “what is it going to take to move from a more passive system to a more active system?” Ms. Davies explained that the current regulations allow authority for syndromic surveillance, but that the difficulty lies in implementing system and interpreting data. Dr. Gray explained that existing rules are sufficient for a small community such as his (NE Tri-County Health District), and that working relationships are needed not only with police chiefs but also with judges. Dr. Thorburn explained that she was not worried about liability, but was worried about enforcement.

Dr. Hinds discussed the need to be able to bypass courts and enforce quarantine. Dr. Gray replied that someone might question the health officer’s judgment in these situations. Mr. Sloma described the “model emergency powers act” that provides guidance, and has been considered nationally. Secretary Selecky described the intentions of the “model powers act” to provide checklists for state and local authority, that the “model powers act” has been reviewed quickly by attorneys, and that questions were raised that need to be reviewed. Ms. Burke-Cain described how these issues involve some of the most significant legal issues raised today regarding executive and emergency powers. Secretary Selecky stated that these questions need to be raised and that we have a duty to continue exploring how to define our responsibilities.

Mr. Sloma described tuberculosis isolation rules that set precedent for WSBOH authority for denial of liberty in the name of public health, and how the Governor’s emergency powers override the Board’s authority. Dr. Locke encouraged the Board to continue researching these issues with local health officials, and to issue a CR-101 with advice from the Board’s Attorney General. Dr. Locke described the need for greater clarity in roles and authority. He suggested a motion for the Board to issue a CR-101 to investigate the adequacy of current communicable disease rules in terms of responding to bioterrorism and other health emergencies. Ms. Burke-Cain mentioned that CR-101 is not necessary to continuing the discussion. Mr. Sloma asked for Board direction regarding the opening up of rules and identification of sections to open. Dr. Locke suggested opening the rule section referred to in recommendation 9 (p. 33 of the Emergency Preparedness Report, Tab 12).

- ***Motion: The Washington State Board of Health directs its executive director to issue a CR-101 indicating the Board’s intention to consider revising portions of Chapters 246-100 and 246-101 WAC concerning reporting of notifiable conditions, isolation and quarantine, and the emergency powers of local health officers .The Board designates Tom Locke as the rule sponsor.***

Motion/Second: Tom Locke/Ed Gray.

Passed unanimously.

Dr. Thorburn testified on the Spokane River assessment, because she wasn't able to be present during the public testimony period.

STATE HEALTH REPORT

WSBOH staff Craig McLaughlin asked Board members for comments on the draft State Health Report (see Tab 14).

ANNUAL REPORT

WSBOH staff Craig McLaughlin asked Board members for comments on the draft Annual Report (see Tab 15).

PUBLIC TESTIMONY

No public testimony was heard.

ADJOURNMENT

The meeting was adjourned at 3:30 p.m.

WASHINGTON STATE BOARD OF HEALTH

Linda Lake, Chair